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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/647,554

08/25/2003

J. David Carlson

IR-2803(EV)DIV2

3115

7590

06/23/2006

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EXAMINER

SCHWARTZ, CHRISTOPHER P

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 06/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/647,554

Applicant(s)

CARLSON, J. DAVID

Examiner

Christopher P. Schwartz

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7,10,11 and 13-21 is/are pending in the application.
- 4a) Of the above claim(s) 2-7,10 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,13-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

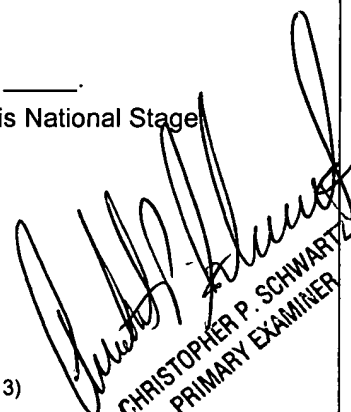
- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

  
CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER

### DETAILED ACTION

1. Applicant's response filed March 20, 2006 has been received and considered.

The finality of the previous Office action has been withdrawn.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,13-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Shibahata et al. in view of Arai or Feigel.

Regarding claims 1 and 13-20 Shibahata et al. discloses a device for magnetizing magnetizable attracting members 13 of a movable member 4,12 into contact with a housing to create a damping effect via friction. See the discussion in column 4 lines 27-42 and lines 55-59.

Lacking in Shibahata is a discussion of the particular ferromagnetic materials of the piston and housing, the sensor arrangement and a discussion that the housing moves into contact with the magnetizable members..

Such magnetic materials are well known however and would have been obvious to the ordinary skilled worker in the art.

The limitation of "... a magnetic field to attract said housing magnetic field attracted material into contact with said movable member.." in claim 1 is broad in scope. Notwithstanding this argument the limitation is considered to be an obvious alternative

equivalent arrangement to that of Shibahata since this patent creates the same effect of friction type damping between the movable member and the housing using magnetizable members of the movable member.

Arai or Feigel are relied upon to teach well known sensor arrangements that could be used in the device of Shibahata et al. to determine the relative position of the movable member and control the level of damping or the adjust the height of the vehicle.

The limitations of claims 13-20 are obvious in view of the teachings of the references above (what they would collectively convey to the ordinary skilled worker) and what is well known in the art.

4. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shibahata et al. in view of Arai or Feigel as applied to claim 1 above, and further in view of Weitzenhof et al..

Weitzenhof et al. is relied upon to provide the known idea of providing an annular chamber or transfer duct 37 with two interior chambers 38,39 via grooves 40.

The housing of Shibahata et al. could be modified with grooves to provide communication to an annular chamber surrounding the interior chambers, as taught by Weitzenhof et al.

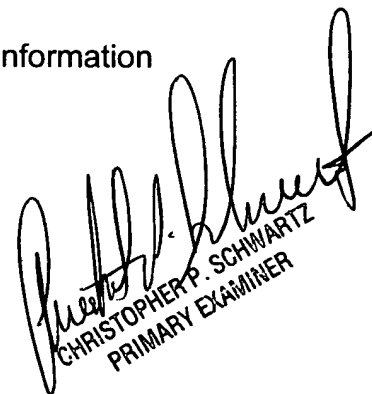
### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Schwartz whose telephone number is 571-272-7123. The examiner can normally be reached on M-F 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim McClellan can be reached on 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cps  
6/21/06

  
CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER